

Minutes of the Meeting of the
Arizona Game and Fish Commission
Friday, May 19, 2006 – 8:00 a.m.
Embry-Riddle Aeronautical University
3700 Willow Creek Road
Prescott, Arizona 86301

PRESENT: (Commission)

(Director's Staff)

Chairman Joe Melton
Commissioner Michael M. Golightly
Commissioner William H. McLean
Commissioner Robert Hernbrode
Commissioner W. Hays Gilstrap

Director Duane L. Shroufe
Deputy Director Steve K. Ferrell
Assistant Attorney General Jim Odenkirk
Assistant Attorney General Shelley Cutts

Chairman Melton called the meeting to order at 8:13 a.m. This meeting followed an agenda dated April 28, 2006.

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1. Executive Session

The Commission voted to meet in Executive Session in accordance with A.R.S. § 38-431.03 (A)(3) and (4) for the purpose of discussion and consultation with legal counsel.

Motion: McLean moved and Gilstrap seconded THAT THE COMMISSION GO INTO EXECUTIVE SESSION.

Vote: Unanimous

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Chairman Melton called the Public Session to order at 10:15 a.m. The Commissioners introduced themselves and Chairman Melton introduced the Director and the Director's staff.

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2. Litigation Report

The monthly Litigation Report was provided to the Commission prior to this meeting for review and copies were available to the public. Mr. Odenkirk had no further updates and the Commission had no questions or comments.

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3. Request for Commission Approval for the Department to Acquire Phase II of Coal Mine Canyon in Santa Cruz County, Arizona

Presenter: Bob Broscheid Habitat Branch Chief

In 2005, the Department was awarded a U.S. Fish and Wildlife Service Section 6 Recovery Land Acquisition Grant for the acquisition of Phase II of the Salero Ranch in Santa Cruz County. The acquisition will include 873.8 acres to be managed consistent with lands acquired during Phase I and will assist in securing the long-term management of the second largest natural population of the endangered Gila topminnow in existence. The Commission provided \$1,500,000 as match to the \$750,000 from the Section 6 Grant for a total cost of \$2,250,000. The Trust for Public Land is partnering with the Commission on the acquisition and will contribute a total of \$30,000 of in-kind contribution for the due diligence portion of the acquisition (appraisal, boundary survey, title, Phase I, reports) and the Commission will provide \$36,000 in administrative costs. Acquisition of this property would further provide an opportunity for the Department to give direct support for the Gila topminnow draft Recovery Plan and contribute to the overall recovery of the Gila topminnow.

Motion: Hernbrode moved and McLean seconded THAT THE COMMISSION VOTE TO APPROVE THE DEPARTMENT'S ACQUISITION OF PHASE II OF COAL MINE CANYON IN SANTA CRUZ COUNTY FOR RECOVERY OF THE ENDANGERED GILA TOPMINNOW AND TO PREPARE AND EXECUTE A PURCHASE AGREEMENT WITH THE TRUST FOR PUBLIC LAND AND AUTHORIZE THE DIRECTOR TO EXECUTE ALL DOCUMENTS NECESSARY TO ACQUIRE THIS PARCEL AS RECOMMENDED OR APPROVED BY THE OFFICE OF THE ATTORNEY GENERAL.

Vote: Unanimous

4 to 1, Gilstrap abstained, due to his association with the Trust for Public Land Board.

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Meeting recessed for a break at 9:26 a.m.

Meeting reconvened at 9:49 a.m.

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4. Update on Current Issues, Planning Efforts, and Proposed Projects on State and Federal Lands in Arizona and Other Matters Related Thereto.

Presenter: Bob Broscheid, Habitat Branch Chief

A copy of the Lands Update report was provided to the Commission prior to today's meeting and is included as part of these minutes. The update addressed decisions or activities since the April 2006 Commission meeting. This update is in fulfillment of the Department's commitment to brief the Commission on a regular basis regarding decisions and actions on all state and federal lands in Arizona.

Mr. Broscheid further briefed the Commission on the progress of the Memorandum of Understanding (MOU) between the Department and Bureau of Land Management. The MOU outlines the importance of the working relationship between the Department and BLM with regard to wildlife management and includes a newly established process for resolving issues and concerns. The MOU is scheduled to be brought before the Commission at the June Commission meeting.

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5. Request for the Commission to Approve an Intergovernmental Agreement with the Town of Marana for the Purpose of Continued Development of a Habitat Conservation Plan

Presenter: Bob Broscheid, Habitat Branch Chief

Director Shroufe requested that this item be deleted from the agenda and brought back at a later date.

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6. Request for the Commission to Approve a Challenge Cost Share Agreement with the USDA Forest Service Southwestern Region for the Purpose of Assisting the Department in Developing a State Petition Regarding the Future Management of National Forest Inventoried Roadless Areas within the State of Arizona

Presenter: Bob Broscheid Habitat Branch Chief

The USDA Forest Service published a proposed rule on July 16, 2004 to revise current regulations regarding the future management of Inventoried Roadless Areas that specifically allows the Governors of each State the opportunity to provide input on the management requirements within their States. This input would be accomplished through the development of a state petition that identifies specific recommendations for management requirements within individual Inventoried Roadless Areas. When developing these petitions, the States are required to solicit input from the public and local governments. State petitions need to be submitted by November 2006 to the Secretary of Agriculture for final review and approval.

Governor Napolitano requested the assistance of the Arizona Game and Fish Commission and Department to complete the petition process. In addition, the Secretary of Agriculture has committed to providing the States with funding to complete the petition process. This Agreement will provide the funding mechanism to support a Department-led effort to gather local input and initiate a State-specific regulation for the management of inventoried roadless areas in the State of Arizona

Commissioner Gilstrap requested that a thank you letter be drafted to the Governor for making this a reimbursable expense.

Chairman Melton expressed support for the state petition process in that it allows the State to be involved and provide input.

Motion: Gilstrap moved and Hernbrode seconded THAT THE COMMISSION VOTE TO APPROVE THE CHALLENGE COST SHARE AGREEMENT WITH THE USDA FOREST SERVICE SOUTHWESTERN REGION FOR THE PURPOSE OF ASSISTING THE DEPARTMENT IN DEVELOPING A STATE PETITION REGARDING THE FUTURE MANAGEMENT OF NATIONAL FOREST INVENTORIED ROADLESS AREAS WITHIN THE STATE OF ARIZONA AND EXECUTE THE AGREEMENT AS ATTACHED OR AS RECOMMENDED OR APPROVED BY THE OFFICE OF THE ATTORNEY GENERAL.

Commissioner Hernbrode confirmed with Mr. Broscheid that the Inventoried Roadless Areas involved USDA Forest Service lands only and not BLM or military lands.

Commissioner Gilstrap asked what other states were involved in the same petition process involving Inventoried Roadless Areas, to which Mr. Broscheid stated to his knowledge Colorado, Idaho and several Eastern states.

Vote: Unanimous

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7. State and Federal Legislation

Presenter: Anthony Guiles, Legislative Liaison

Mr. Guiles provided the Commission with a Legislative Update, also available to the public, and briefed the Commission on the status of State and Federal legislation. The wildlife feeding and the wildlife poaching bill were combined in the Senate and signed by the Governor on May 2, and will go into effect 90 days after sine die. The General Appropriations Budget was released this week. Mr. Guiles briefed the Commission on what was included in the budget in regards to requests that the Commission had submitted. The budget may be passed this week. In regards to the Capitol Budget, the Department received most of what was requested.

Public comment

Sandy Barr, Conservation Director, Sierra Club, thanked the Commission for working on the wildlife feeding bill as well as the poaching bill.

Mr. Guiles further briefed the Commission on a federal issue regarding State Wildlife Grants funding. The President's request for that was approximately \$74,000,000 for this budget cycle. The House has approved approximately \$50,000,000, which translates into a loss of approximately \$300,000 - \$400,000 for the State of Arizona. Efforts are being made to get this upgraded in the Senate.

The Commission discussed with Director Shroufe and Assistant Director Bruce Taubert, Wildlife Management Division, how this would effect the Department in terms of matching dollars.

Director Shroufe stated that he was optimistic about getting the amount back up by the Senate; however, there are a lot of issues for the federal government this year and conservation efforts are getting more difficult.

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8. Statewide Shooting Range Briefing

Presenter: Ty Gray, Education Branch Chief

A copy of the Statewide Shooting Range Briefing report was provided to the Commission prior to this meeting and was available to the public. The update provided new information, as well as progress toward resolving ongoing issues and concerns on shooting ranges statewide. This update was in fulfillment of the Department's commitment to brief the Commission on a regular basis regarding decisions and actions on all state and federal lands in Arizona.

Mr. Gray provided an additional update regarding the Rio Salado Sportsmen's Club Usery Mountain Shooting Range. The Arizona Department of Environmental Quality issued a "no further action" letter in regards to potential contamination of the septic system. The club can now move forward with installing the new septic system.

Public Comment

Charles DeVito, Range Director, Prescott Sportsmen Club, addressed the Commission requesting that the Commission acquire the Prescott Range and take over the management of it. The reason for the request was that the Forest Service is not planning to renew the land lease for the range at the end of the current lease, which is scheduled to end in eight years.

The Commission discussed and asked questions regarding the status of the range and current issues. The Commission gave direction to the Department to investigate and research information regarding the range and to bring that back to the Commission. The Prescott Range will be added to the Statewide Shooting Range Briefing and monthly updates will be provided.

Bob Broscheid, Habitat Branch Chief, provided the Commission with an update on the Northern Shooting Range progress. Three public meetings were held in April in Northern Arizona. Out of 108 comments received from those meetings, 100 were in favor of the location. A sound study will be conducted in early June, which will address the concern for people living near the location. A baseline lead analysis will be completed as well as a projection of how much more lead, if any, can be expected from the shooting range. Also, the Department will move forward with an archeology survey and a threatened and endangered species survey for the area. Currently, two sets of proposed range designs are being drafted. All of these studies will roll into the environmental document that will be used for the land exchange. A synopsis and more detailed briefing is being put together and will be forwarded to the Commission when it is completed. Congressman Renzi and the Governor's Office are also being kept informed with regular updates on the shooting range progress.

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Meeting recessed for a break at 11:14 a.m.

Meeting reconvened at 11:33 a.m.

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9. Law Enforcement Directive 1011, Pick Up and Possession of Wildlife Parts, Alternatives to the Existing Directive to the Commission, and Direction in Future Enforcement of Pick Up and Possession of Wildlife Parts

Presenter: Mike Senn, Assistant Director, Field Operations Division

Using a Power Point presentation, Mr. Senn briefed the Commission on the current Law Enforcement Directive 1011. This directive provides the Department Law Enforcement Officers direction on the possession of wildlife parts held under the authority of Arizona Revised Statutes (A.R.S.) § 17-09.A.20. Mr. Senn presented alternatives to the current Law Enforcement Directive and requested the Commission to provide direction on future enforcement of the pick up and possession of wildlife parts.

Commissioner McLean suggested that additional criteria in determining whether or not an animal died of natural or unnatural causes could be to require a more prompt investigation. Additionally, Department policy regarding pick up and possession of wildlife parts needs to be available to the public in the hunt regulations booklet.

The Commission discussed the definition of natural and unnatural death in regards to wildlife and issues regarding documentation for possession or transportation of pick up parts.

Commissioner Hernbrode stated that evidence of foul play should be the criteria and not the definition of natural or unnatural death, and that if there is no evidence of foul play, then the pick up should be allowed. Also, the investigating officer should be able to make that determination and then administer appropriate documentation, if allowed, for possession and/or transport and it should not have to come before the Commission.

Commissioner Mclean concurred and added that in the policy, the term “legality” should be used and not the terms natural or unnatural death.

Commissioner Golightly expressed that the Commission needs to support the officer’s decision on whether an animal died from natural or unnatural death.

Commissioner Gilstrap noted potential loss to the Department regarding the value of pick up parts and their sale value.

Commissioner Mclean agreed with supporting the officers, and additionally that taxidermists need to be kept informed about the correct way to handle a pick up animal.

The Commission further discussed how to implement a way to handle this issue without making criminals out of people not intending to be violating the law, and also how to make some changes without going through the rulemaking process.

Mr. Odenkirk stated that the current statute is intended to deter unlawful take and assist the officer by putting the burden on the individual finding wildlife parts to help the Department determine its legality. Trying to change Department policy to be more liberal is good, but the intent of the statute must be considered as the policy becomes more regulatory in nature. Mr. Odenkirk suggested that these changes go through the rulemaking process as they may exceed the intent of the statute and be too regulatory in nature to be a policy. Additionally, rulemaking would allow the Commission to establish the criteria that the public must adhere to in order for the Department to issue documentation for possession or transport of a wildlife part.

Motion: McLean moved and Golightly seconded THAT THE COMMISSION VOTE TO DIRECT THE DEPARTMENT TO DRAFT AND BRING BACK TO THE COMMISSION A

POLICY THAT ADDRESSES THE ISSUES DISCUSSED AND THAT THE COMMISSION ATTEMPT TO REACH A CONSENSUS ON A POLICY STATEMENT BEFORE ENTERING INTO THE RULEMAKING PROCESS, AND THAT THE POLICY COMPLIES WITH STATUTE AND IS SATISFACTORY TO THE ATTORNEY GENERAL.

Vote: Unanimous

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Meeting recessed for lunch at 12:44 p.m.

Meeting reconvened at 2:06 p.m.

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16. Hearings on License Revocations for Violation of Game and Fish Codes and Civil Assessments for the Illegal Taking and/or Possession of Wildlife at Time Certain 2:00 p.m.

Records of these proceedings are maintained in a separate minutes book in the Director's Office.

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15. Petition to Revise Rule R12-4-319, to Prohibit Only Valid Tagholders From Using Aircraft to Locate Wildlife During a Hunt in Game Management Units for Which They Have a Tag

Presenter: Ronald L. Day, Law Enforcement Branch Chief

Mr. David Blackenbaker, of Tucson, Arizona, submitted a petition to revise A.A.C. R12-4-319 (Use of Aircraft to Take Wildlife). This petition was provided to the Commission prior to this meeting for review and consideration. Mr. Blackenbaker's petition requests that the rule be revised to prohibit only valid tagholders from using aircraft to locate wildlife during a hunt in game management units for which they have a tag.

The Department believes Mr. Blackenbaker's petition does not have merit and if accepted, the amended rule would work contrary to the original intent of the rule. The Commission originally authorized this rule in 1999 and it was subsequently amended in 2004 during regular rules review. This rule parallels the Federal Airborne Hunting Act and provides the State authority to address the unlawful use of aircraft for the take of wildlife. The language Mr. Blakenbaker wishes to change was drafted specifically to prevent the activity he wants to reinstate. Prior to this rule it was found that very few of the individuals who were using aircraft to locate wildlife were actually tagholders. Regularly guides were found to use aircraft when locating trophy class wildlife or scouting for their clients. The rule has been effective as currently written and has had a positive effect in regards to the take of wildlife and the concepts of hunting ethics and fair chase regarding the use of aircraft. The Department recommended that the Commission vote to deny the petition.

Commissioner Hernbrode asked when this rule will be up for review again, to which Mr. Day stated that this rule was in Article 3 and would be opening up this summer. As a part of the regular rules process, Mr. Blankenbaker's comments would be incorporated into the regular rule process.

Mr. Blackenbaker was present and addressed the Commission making several points including that the rule needs to be species specific, there is no distinction between viewing wildlife and locating wildlife for a hunt, and there is some confusing language in the rule. Mr. Blackenbaker discussed his letter, suggested rule language and listed several other Western states laws pertaining to aircraft, which was provided to the Commission prior to this meeting.

Commissioner Golightly stated that when this rule was put in place, it was on the table for 18 months and included several public meetings where there was almost unanimous support from the public for the rule.

Motion: Hernbrode moved THAT THE COMMISSION VOTE TO DENY THE PETITION, BUT THAT THE PETITION BE CONSIDERED WHEN THE RULE IS OPENED FOR REVIEW; AND FURTHER THAT THE FOLLOWING LANGUAGE BE CONSIDERED AS A STARTING POINT FOR REPLACING THE CURRENT RULE: A) FOR THE PURPOSES OF SECTION A, AIRCRAFT MEANS ANY CONTRIVANCE USED FOR FLIGHT IN THE AIR OR ANY LIGHTER-THAN-AIR CONTRIVANCE; B) THAT NO PERSON SHALL USE ANY AIRCRAFT AS AN AID TO TAKE ANY WILDLIFE IN ARIZONA, EXCEPT PREDATORY ANIMALS, WHEREBY SPOTTING AND LOCATING THE WILDLIFE, COMMUNICATING WITH ANY OTHER PERSON ATTEMPTING TO TAKE WILDLIFE OR BY PROVIDING ANY OTHER AID TO ANY PERSON TAKING WILDLIFE WITHIN 48 HOURS OF BEING AIRBORNE; AN E) THIS SECTION DOES NOT APPLY TO ANY INDIVIDUAL ACTING WITH THE SCOPE OF OFFICIAL DUTIES AS AN EMPLOYEE OR AUTHORIZED AGENT OF THE STATE OR THE UNITED STATES TO ADMINISTER OR PROTECT OR AID IN THE ADMINISTRATION OR PROTECTION OF LAND, WATER, WILDLIFE, LIVESTOCK, DOMESTICATED ANIMALS, HUMAN LIFE, OR CROPS.

Commissioner Golightly clarified with Commissioner Hernbrode that his proposed rule language would be considered as any other comment for the record in the rulemaking process.

Commissioner Gilstrap requested that Commissioner Hernbrode break his motion down into two.

Motion withdrawn.

Motion: Hernbrode moved and Gilstrap seconded THAT THE COMMISSION VOTE TO DENY THE PETITION.

Vote: Unanimous

Motion: Hernbrode moved and Gilstrap seconded THAT THE COMMISSION VOTE THAT WHEN THE RULE IS OPENED THIS SUMMER THE COMMISSION CONSIDER MR. BLANKENBACKER'S PETITION FOR RULE CHANGE; AND THAT THE COMMISSION CONSIDER THE LANGUAGE PREVIOUSLY STATED BY COMMISSIONER HERNBRODE.

Vote: Unanimous

Commissioner Gilstrap clarified that the language proposed by Commissioner Hernbrode will be the starting point for the rulemaking language as it goes to the public and through the process and not that this will be the language in the rule.

Commissioner Hernbrode stated that was correct.

Commissioner Golightly clarified that Commissioner Hernbrode's proposed language will be evaluated by the Commission as any other comments would be evaluated in the rulemaking process.

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17. Petition to Have the Department Return a Mule Deer Skull Seized Under the Authority of Law Enforcement Directive 1011, Pick Up and Possession of Wildlife Parts

Presenter: Ronald L. Day, Law Enforcement Branch Chief

Mr. Todd Anderson of Prescott, Arizona, submitted a petition requesting the Commission direct the Department to return a large mule deer skull seized from a taxidermist on September 23, 2005. The Department was unable to determine the cause of death. Law Enforcement Directive 1011 makes possession of wildlife parts unlawful if the cause of death was indeterminate and the wildlife part is fresh.

Officer Darrin Tucker briefed the Commission on his investigation and stated that Mr. Anderson initially avoided revealing the location where the animal was found, would not reveal the name of the person he was with, and possessed a video tape of the site, but would not provide it to the officer.

The Commission questioned Officer Tucker on several points including that the video would have been helpful in determining whether or not it was a lion kill.

Mr. Anderson addressed the Commission stating that he found the deer and the condition he found it in, and further stated that there was nothing in the regulations that told him he could not pick up the deer. Also, he did not take Officer Tucker out to the site initially because his buddy was out there elk hunting.

Commissioner Golightly pointed out that it would take a mountain lion 20 yards to kill a deer that size, so if a lion killed the deer, the site would have been a mess. Mr. Anderson should have insisted that Officer Tucker examine the site to determine that it was a lion kill.

The individual who was with Mr. Anderson when he found the deer was present and told the Commission that the deer looked like a lion kill and that's why they picked it up and took it to a taxidermist.

Motion: Hernbrode moved and McLean seconded THAT THE COMMISSION VOTE TO DENY THE PETITION TO RETURN THE MULE DEER SKULL SEIZED FROM MR. ANDERSON.

Vote: Unanimous

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Meeting recessed for a break at 3:49 p.m.

Meeting reconvened at 4:02 p.m.

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18. Appeal of Denial of Guide License Application for Mr. Darin M. Collins and Thomas H. Sissom

Presenter: Bob Posey, Kingman Regional Supervisor

The Department denied the appellants' guide license applications under the provisions of Arizona Game and Fish Commission Rule R12-4-208(G) which states that the Department "shall deny a guide license if the applicant fails to comply with the requirements of this Section." That section, at Rule R12-4-208(K)(5)(e) requires the applicant to submit an annual report in accordance with A.R.S. 17-362. A.R.S. 17-362(B), in turn, requires each guide to provide "the name and address of each person guided, the number of days he has been so employed and the number and species of game taken." The Department denied the applications on the grounds that the applicants provided annual guide reports for 2004 that contained false information or omissions. Darin M. Collins submitted an annual report stating that no wildlife had been taken by client Garry Parsons, yet Collins witnessed Parsons take a spike elk illegally during the antlerless elk season. During the same antlerless elk hunt, Thomas H. Sissom failed to include the name of a client that he had guided. The discovery of the illegal take of the elk occurred in January of 2005, after the issuance of their 2005 guide licenses, which occurred on December 13, 2004, for Collins and January 4, 2005, for Sissom. The investigation into the illegal take of the spike elk was not completed until the fall of 2005. The Department denied the 2006 hunting guide applications of both appellants based on information that had been discovered during the investigation.

Assistant Attorney General Victoria Mangiapane was present via telephone for this item to provide advice to the Commission because Assistant Attorneys General James Odenkirk and Shelley Cutts already had advised the Department regarding this matter and thus could not advise the Commission.

Attorney Jack Simon was present to represent his clients Darin M. Collins and Thomas H. Sissom, and addressed the Commission on their behalf. Mr. Simon provided copies of statutes and rules as they related to this case and an original "Appellant's Memorandum in Support of Their Appeal" (attached to these minutes).

Mr. Posey briefed the Commission on the case and the basis for the Department's decision, and provided documentation labeled Exhibits A-1, A-2, B, C, D, E, F-1, F-2, G, H (attached to these minutes).

Motion: Mclean moved Golightly seconded THAT THE COMMISSION ACCEPT EXHIBITS A-1, A-2, B, C, D, E, F-1, F-2, G AS EVIDENCE BEING RECORDS OF THE DEPARTMENT USUALLY KEPT IN THE ORDINARY COURSE OF BUSINESS.

Vote: Unanimous

Commissioner McLean verified with Mr. Posey that Exhibit H was an incident report prepared by Officer Baumgarten and that copies of the mentioned Exhibits were provided to Mr. Simon.

Motion: Mclean moved and Golightly seconded THAT THE COMMISSION VOTE TO ACCEPT EXHIBIT H.

Vote: Unanimous

Officer Baumgarten summarized the contents of the incident report for the Commission.

Mr. Simon objected for the record to any testimony that stated that Mr. Collins or Mr. Sissom guided a hunter in this case, and rather, they needed to establish the facts that would show that Mr. Collins or Mr. Sissom were acting as guides, i.e. the payment of money.

Officer Baumgarten provided Exhibit I and J (attached to these minutes); the exhibits were a letter written by Officer Baumgarten to the X Bar One Ranch owners and their response letter stating that Mr. Collins and Mr. Sissom had a contract for exclusive rights to guide on their ranch.

Motion: Mclean moved and Golightly seconded THAT THE COMMISSION VOTE TO ACCEPT EXHIBITS I and J.

Vote: Unanimous

Mr. Simon objected and stated that the guiding outfit that Mr. Collins and Mr. Sissom worked for had a contract with the ranch, but it was not exclusive.

Officer Baumgarten played an excerpt of a tape of his interview with Garry Parsons, which indicated that Mr. Parsons paid an access fee to hunt on the ranch, but did not pay a guiding fee; however, Mr. Parsons was not allowed to hunt unattended on the ranch, which demonstrated to Officer Baumgarten that guiding services were provided. Also, Mr. Parsons admitted to killing a spike elk, which was not indicated on the guide reports. Another indication of guiding services was that Mr. Parsons believed Mr. Collins would take care of the elk that was killed.

Mr. Simon stated for the record that he would like to make a standing objection to Department personnel making conclusions as to what something means.

Ms. Mangiapane stated that that the Commission could accept testimony in narrative form if they so chose. Ms. Mangiapane also suggested that the Commission could allow Mr. Simon to make a blanket objection to allow the hearing to proceed.

Officer Baumgarten further stated that the claimants used their own vehicles, which further indicated that they were acting as guides. In regards to the timeline, the violation took place in 2004 and it was not known to the Department in January 2005 when the claimants applied for their 2005 guide licenses, so subsequently their 2006 guide licenses were denied.

Mr. Posey further provided documents to the Commission labeled Exhibits K-1, K-2 and L, which pertained to the denial of Mr. Sissom's guide license (attached to these minutes). Mr. Posey pointed out that Lance Erickson, one of the tagholders in the hunt, was omitted from Mr. Sissom's guide report and Mr. Collins reported the three tagholders as clients, although false information was submitted, as an elk was noted as killed and not a spike elk.

Commissioner Golightly clarified with Mr. Posey the relationship of the claimants to the tagholders in that Mr. Johnson was friends with Mr. Collins' father and that all three tagholders were employed by Mr. Johnson.

Commissioner Golightly asked about the report form that guides are required to submit and stated that he would like to see the form ask "who did you guide for money." Generally, in these types of convictions in the past, money has to exchange hands in order to prove that guide service was provided.

The Commission further discussed with Mr. Posey, the obligations of licensed guides whether they are guiding or just in the field during a hunt.

Mr. Simon stated that there were no guiding services being conducted and therefore no requirement to report any activity. Mr. Collins and Mr. Sissom were assisting the tagholders because Mr. Collins father was a longtime friend of Mr. Johnson. There was no payment of any kind for services. Also, Mr. Collins' and Mr. Sissom's 2006 licenses were renewed based on their 2005 report.

The Commission discussed and asked questions regarding the timelines of the incident and subsequent actions by the Department. Also discussed was what was reported on the guide report and whether or not it should have been reported if the claimants were not acting as guides. The form itself was questioned as to whether it could be read differently by different individuals.

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Meeting recessed for a break at 6:05 p.m.

Meeting reconvened at 6:17 p.m.

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Mr. Simons presented to the Commission several affidavits from individuals interviewed in this case by Mr. Simon (attached to these minutes), which stated that no money changed hands for guide services.

Officer Baumgarten provided a written witness statement (attached to these minutes).

McLean moved and Hernbrode seconded THAT THE COMMISSION VOTE TO ADMIT ALL THE AFFIDAVITS AND THE STATEMENT AND IN DELIBERATION THE COMMISSION WILL DECIDE WHAT WIEGHT IF ANY THEY WILL GIVE TO THE AFFIDAVITS OR WITNESS STATEMENT, SWORN OR UNSWORN.

Vote: Aye – Melton, Golightly, McLean, Hernbrode
Nay – Gilstrap
Passed 4 to 1

Commissioner Gilstrap explained his vote stating that the witness statement was written out on a sheet of paper and could have come from anywhere.

Mr. Simon questioned Officer Baumgarten in regards to his investigation and knowledge of the case, and about the 30 day notice rule for informing an applicant if the applicant has been denied a license.

The Commission discussed the regulations as they pertain to guides and the 30 day notice rule.

Mr. Sissom and Mr. Collins were present and answered several questions for Mr. Simon and for the Commission. Both Mr. Sissom and Mr. Collins stated that they were not acting as paid guides in this situation.

The Commission further discussed the timelines of the investigation.

Ms. Cutts and Mr. Simon gave closing summaries and comments regarding this case to the Commission.

Motion: Golightly moved and Gilstrap seconded THAT THE COMMISSION VOTE TO ISSUE RENEWAL LICESNSES FOR 2006 TO MR. SISSOM AND MR. COLLINS.

Commissioner Mclean stated that he would vote aye although he doesn't believe the guides deserve it.

Commissioner Hernbrode stated that he would vote aye, but believes Mr. Collins is culpable and should have been cited.

Vote: Unanimous

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10. Director's and Chairman's Report

Director Shroufe announced the Heritage Grant Awards and provided copies to the Commission. Additionally, Richard Rico briefed the Commission for the Director on the new vendor for the draw. The Department started accepting online applications. There were a few minor glitches, but they have been corrected. The Commission will be provided with a weekly briefing until the draw deadline with regard to how it is going.

Chairman Melton reported that he went to the Scholastic Shooting Event at the Ben Avery Shooting Facility.

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11. Commissioners' Report

Commissioner Gilstrap waived his report.

Commissioner Golightly reported being involved with legislative matters.

Commissioner McLean reported that other than some legislative work he spent time on vacation.

Commissioner Hernbrode waived his report.

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12. Approval of Minutes and Signing of Minutes

There were no minutes to be approved or signed at this time.

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13. Call to the Public

There were no request to speak to the Commission at this time.

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14. Future Agenda Items

Deputy Director Ferrell captured five action items:

- Draft a letter to the Governor for Chairman's signature thanking her for gaining reimbursable expenses from the federal government for developing a state petition regarding future management of U.S. Forest Service Inventoried Roadless Areas
- Investigate the disposition of reverted State Wildlife Grant funds as a result of states failing to match their apportionment. Bruce Taubert, Assistant Director, Wildlife Management Division, investigated this during the meeting and found that the explanation that the Director gave was accurate. Those are reverted back for distribution the following year
- Investigate the merits of the Department's potential acquisition of the Prescott Sportsmen's Club Shooting Range at Grand Basin Lake and any other options for providing shooting range facilities for providing shooting range facilities in the Prescott area. Include progress in monthly shooting range update
- Draft a substantive policy statement for the possession of pick up parts and the statement should consider inclusion of Department issued document of lawful possession such as a permit of some kind, the use of evidence of foul play as a criteria, use of economic value as a criteria, the disturbed or undisturbed nature of the site, and allowing for some wounding losses
- Consider the proposed changes to R12-4-319 offered by Mr. Blankenbacker and Commissioner Hernbrode in the five year rule review for Article 3, and then use Commissioner Hernbrode's proposed language as a starting point for rule making to revise R12-4-319.

Commissioner Gilstrap asked about the procedure for developing the salary ranges and the Department's ability to directly hire people, and asked if the Department has that now.

Director Shroufe stated that the Department is working on that, but if the Department can't get the money appropriated by the Legislature, it's futile. The Department has been successful in carrying out what the Commission has asked, but only with the approval of the Arizona Department of Administration and the Legislature with the supplemental budget. It's still based on the Department/ Commission's ability to get money from the Legislature. The only way is to get the law changed so that the Commission has control over the budget.

Commissioner Gilstrap stated that he would like to see salaries commensurate across the state and not just with other state employees.

Director Shroufe stated that the proposed initiative will have that language in it.

Chairman Melton requested Director Shroufe to schedule a meeting, which includes Commissioner McLean, and to look at and discuss that initiative.

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Motion: Golightly moved and Gilstrap seconded THAT THE COMMISSION VOTE TO ADJOURN.

Vote: Unanimous

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Meeting adjourned at 8:46 p.m.

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Joe Melton, Chairman

Michael M. Golightly, Member

William H. McLean, Member

Robert Hernbrode, Member

W. Hays Gilstrap, Member

ATTEST:

Duane L. Shroufe
Secretary and Director